



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

ISSUED JULY 2014

## Dairy Product Manufacturers B&O Tax Deductions

### Summary

This notice represents a change in the Department's administration of the business and occupation (B&O) tax deductions provided by [RCW 82.04.4268](#) to manufacturers of dairy products.

The Department has determined that certain retail sales by manufacturers of dairy products are also eligible for the B&O tax deduction. In addition, due to the change from B&O tax exemptions to deductions in October 2013, businesses taking advantage of these preferences must now include the income when filing their returns.

**"Dairy products"** means:

(A) Products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (A) of this subsection, measured by weight or volume (effective October 1, 2013).

### What the deductions provide

The Department has previously allowed a deduction under:

- the manufacturing B&O tax classification based on the value of products sold by dairy product manufacturers; and
- the wholesaling B&O tax classification for those products manufactured and sold by the manufacturer at wholesale to a customer that transports the product outside this state in the normal course of business; and
- the wholesaling B&O tax classification for those products manufactured and sold by the manufacturer at wholesale to a customer who uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington (effective October 1, 2013).

The Department has now determined that the **law also provides a deduction under:**

- the retailing B&O tax classification for those products manufactured and sold by the manufacturer to a customer that transports the product outside this state in the normal course of business.

If you determine that you may be eligible for a refund of overpaid B&O tax, you may request a refund. The Department may only honor refunds dating back four years prior to the year in which the refund request is made. For information on filing amended returns, visit us online at **dor.wa.gov**, click on *File & pay taxes*, then *File or amend my return*.

The deductions expire July 1, 2015.

### **Reduced B&O tax rate to replace deductions**

The above deductions provided to dairy product manufacturers will be replaced with a reduced a B&O tax rate of 0.138 percent under [RCW 82.04.260\(1\)\(c\)](#) effective July 1, 2015.

Income from the following activities will be subject to the reduced B&O tax rate at that time:

- manufacturing dairy products, and
- retail and wholesale sales by the dairy product manufacturer of products they manufactured and sold to buyers that transport the goods outside the state in the normal course of business, and
- wholesale sales by the dairy products manufacturer of products they manufactured and sold to be used in the manufacturing of another dairy product in this state.

Other retail and wholesale sales by dairy product manufacturers will be subject to the Retailing or Wholesaling B&O tax classification at the rate of 0.471 percent and 0.484 percent.

The preferential tax rate provided to manufacturers of dairy products that are used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product expires on July 1, 2023.

The preferential tax rate for the other activities listed above expires on January 1, 2026 (See [RCW 82.32.805](#)).

### **Change to tax return filing requirements**

The B&O tax deductions were changed from an exemption to a deduction effective October 1, 2013. Income that was previously exempt from reporting must now be included in the gross income reported by the business under Manufacturing Dairy Products, Wholesaling, and Retailing classifications of the business and occupation (B&O) tax. The business may then deduct amounts attributable to qualified activities. Specific deductions are listed in e-file for each B&O tax classification.

Other retail and wholesale sales should also be reported under the Retailing and Wholesaling B&O tax lines of the return. An Interstate and Foreign Sales deduction is still allowed under the Retailing and the Wholesaling B&O tax lines for product delivered to customers outside the state.

Businesses taking the preferential tax deductions provided by RCW 82.04.4268 that have not been reporting the income on their excise tax returns, should begin with their next regular excise tax return.

### **Documentation for sales by manufacturer**

A manufacturer claiming a deduction from the retailing or wholesaling B&O tax must keep and preserve records for up to five years that establish that the goods were transported by the purchaser in the ordinary course of business out of this state. A letter from the buyer stating this fact is adequate documentation. For wholesale sales, the buyer must also provide the seller with a copy of the buyer's valid reseller permit.

### **Annual Tax Incentive Survey required**

All businesses claiming the deductions and subsequent reduced B&O tax rates are required to electronically file an Annual Tax Incentive Survey by April 30th of the year following the year the deduction or reduced B&O tax rate were claimed ([RCW 82.32.585](#)). For example, if you claim the B&O tax deduction in 2014, you must file an annual survey by April 30, 2015.

To file a survey, go to our website at **dor.wa.gov** and login to *My Account*. Once you're logged in, click on *Credits & Tax Incentives*, then *File Tax Incentive Survey/Report* and complete the survey.

### **Failure to file Annual Tax Incentive Survey results in tax due**

If you don't file the survey as required, you will be assessed tax on the previously exempt income. The B&O tax rate under manufacturing and/or wholesaling is as follows:

- For periods prior to June 10, 2010 - the rate of 0.138 percent will apply
- For periods from June 10, 2010 - June 30, 2015 – the rate of 0.484 percent will apply

The B&O tax rate for retailing is 0.471 percent.

### **Need assistance**

- Need help logging in to *My Account*, call 1-877-345-3353 or (360) 902-7079.
- Have general tax questions, please call our Telephone Information Center at 1-800-647-7706.
- Have specific questions regarding the Annual Tax Incentive Survey, please call our Taxpayer Account Administration division at (360) 902-7167.